

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)	CASE NO. CR03-479-JCC
)	
Plaintiff,)	
)	
v.)	SUPPLEMENTAL SUMMARY
)	REPORT OF U. S. MAGISTRATE
TIMOTHY A. HOTCHKISS,)	JUDGE AS TO ALLEGED
)	VIOLATION OF PROBATION
Defendant.)	
_____)	

This report will supplement the report filed on March 18, 2008. (Dkt. 111.) An evidentiary hearing on probation revocation in this case was scheduled before me on April 30, 2008. The United States was represented by AUSA James D. Oesterle and the defendant by Michael Martin. The proceedings were digitally recorded. The procedural history of the case, set forth in the previous summary report, will not be repeated in this report. Violations 1, 2, 3, 4, 5, 7, 8, and 9 have been previously addressed. (Dkt. 94, 11.)

A report filed by United States Probation Officer Mark Okano on January 25, 2008 (Dkt. 104), alleges the following violation of probation:

6. Committing a new state law violation of Theft in the Second Degree in violation

01 of RCW 9A.56.040 by wrongfully obtaining control of property (to wit: Milgard windows) in
02 value which exceeds \$250.00 but not more than \$1,500.00.

03 **Findings of Fact**

04 (A) The defendant was employed by The Dwelling Company (TDC) as a construction
05 site superintendent from January 2007 through October 2007. The defendant worked at the Little
06 Boat North construction project in Gig Harbor, Washington. His duties included oversight of
07 construction at the job site, including the delivery of construction materials.

08 (B) During the time that the defendant was working at the job site, a number of
09 windows ordered by TDC from Milgard Windows disappeared from the construction site and had
10 to be replaced.

11 (C) Defendant's probation officer, Mark Okano, showed photographs of a number of
12 Milgard windows that had been found at the defendant's residence address to Scott Inveen, the
13 Director of Construction for TDC. By comparing a list of labels on the windows with purchase
14 orders and quotes from Milgard Windows, Mr. Inveen was able to identify the windows found at
15 the defendant's residence as having been ordered from Milgard by TDC and then taken from the
16 Little Boat North construction site. The defendant did not have permission or authority to remove
17 the windows from the job site.

18 (D) The value of the windows referenced in the preceding paragraphs exceeded \$250.

19 **Conclusion**

20 By a preponderance of the evidence, the government has established that defendant
21 committed the crime of Theft in the Second Degree, in violation of R.C.W. 9A.56.040 by
22 wrongfully obtaining control of property, to wit, Milgard windows, the value of which exceeds

01 \$250.00.

02 I recommend the Court find defendant violated his probation as alleged in violation 6. The
03 Court may wish to consolidate the disposition of this violation and previously admitted violations
04 1, 2, 3, 4, 8, and 9, and violation 7, established by a preponderance of the evidence following an
05 evidentiary hearing. The next hearing will be set before Judge Coughenour.

06 Pending a final determination by the Court, defendant has been detained.

07 DATED this 30th day of April, 2008.

08 

09 Mary Alice Theiler
10 United States Magistrate Judge

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12 cc: District Judge: Honorable John C. Coughenour
13 AUSA: James D. Oesterle
14 Defendant's attorney: Michael Martin
15 Probation officer: Mark K. Okano
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